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December 11, 2020

**United States District Court
Southern District of New York**

MOUSSA DIARRA,) Civil No. 1:16-civ-07075(VSB)
 Plaintiff,) (closed)

**FINAL EQUEST FOR
PERMISSION TO SEND
COPIES OF SEALED
EVIDENCE TO DOJ AND NY
COMPTROLLER'S OFFICE.**

1 **Ref: Final Request to submit copies of Sealed Evidence to DOJ**
2 **and New York Comptroller's Office:**

3 Judge Vernon Broderick:

5 Mr. Diarra makes this final request for permission to submit
6 electronic copies of sealed photos of Mrs. Diarra to New York
7 Comptroller's office and Department of Justice, as part of pending
8 notice of claim and crime report. Mr. Diarra makes this request in light
9 of the three other requests which have been ignored by chambers. See
10 ECF-DOCKET 264-266. Furthermore, as this is notice that this is the
11 last request. Mr. Diarra will be proceeding for a writ of mandamus on
12 the matter with the Second Circuit in due course.

13 This is the sixth request to transmit email copies of sealed
14 documents held in custody by Judge Broderick to City of NY and DOJ,
15 see ECF 261- ECF 265 dated April 1 2020, April 7 2020, May 7 2020
16 and August 14th, 2020. All these requests were summarily ignored. In
17 light of COVID-19, a response from chambers is necessary in this
18 matter because the statute of limitation for his notice of claim is not
19 exhausted.

21 Pursuant to the Fourteenth Amendment's Equal Protection clause Mr.
22 Diarra has a right to obtain and adduce evidence in proceedings to which
23 he is a party, such as the administrative hearing with NY Comptroller's
24 office, as well as part of his compliant against you with the DOJ. See,
25 *Jencks v. United States*, 353 U.S. 657 (1957); *Giglio v. United States*, 405
26 U.S. 150 (1972); and *Brady v. Maryland*, 373 U.S. 83 (1963).

27 Furthermore, pursuant to *United States v. Carolene Products Company*,
28 304 U.S. 144 (1938) (see footnote 4); stating the limits and process for

substantive due process. The taking of the right to equality (here, Mr. Diarra's right to present evidence in his case), should comply with *Carolene*. The legal reasons for refusal of evidence from a branch of government, here Chambers, to give evidence pertinent for Mr. Diarra's second notice of claim with the City of New York, as well as the pending DOJ investigation should be clearly stated as it directly affects Mr. Diarra's legal rights and remedies.

Relevancy of sealed photos¹:

Photos of Mrs. Diarra were previously sealed by this office. See, sealing order - Exhibit 2.

The photos are relevant under FRE 401 because they show that no rape kit was ever made at the time of the actual arrest / incident – no photos of Mrs. Diarra were taken before the arrest - instead photos showing Mrs. Diarra’s healthy genitalia were then taken four-five months later. However, Mr. Diarra was arrested for genital cutting.

If this request is ignored, Mr. Diarra will be proceeding, accordingly, with a writ of mandamus.

DATED: LIVINGSTON, NEW JERSEY
December 11th, 2020

¹ The affirmation of the District Court's order by the Second Circuit is not binding precedent and has little or no jurisprudential value, depending on the District judge's interpretation - rendering the District Court's order in the first Diarra matter non-binding precedent. By its nature, this order is subject to a weaker standard of reversal should the summary order come under review by a different panel of the Second Circuit or a different District judge.

Respectfully Submitted,

/s/ Kissinger N. Sibanda
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To: BY ECF

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United States District Court
Southern District of New York
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VIA ECF

Cooperation Counsel - James Johnson
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3 **CC: COLLEN McMAHON**
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5 Chief judge SDNY.
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